When Federal Courts Faced Northern Mobs, P. 2

How Liberals Unwittingly Follow an Old Dulles Line on Formosa, P. 3; De Gaulle's Blank Checks, P. 4

I. F. Stone's Weekly

VOL. VI, NO. 39 OCTOBER 6, 1958 WASHINGTON, D. C. 15 CENTS

Did Ike and Dulles Deceive Congress on Quemoy?

Secretary Dulles admitted last Tuesday that (as charged by Senator Morse in *The Nation*) we had no commitment to defend Quemoy under our security treaty with Chiang's "Republic of China." The Secretary said the Administration was acting under the Joint Resolution of January, 1955, which did authorize the President to defend the offshore islands if he thought this necessary to the defense of Formosa and the Pescadores.

But is this the whole story? According to last year's authorized biography of John Foster Dulles by John Robinson Beal secret assurances on Quemoy were given Chiang in connection with both the treaty and the Formosa resolution. We invite the attention of Morse and the Senate Foreign Relations Committee to two passages. The first is at pages 220-1. It says that during Congressional debate over the Formosa Resolution, "It was not known . . . that Free China's President Chiang Kai-shek received a personal letter from Mr. Eisenhower satisfying him that the United States would help defend Quemoy and Matsu, for that fact has not appeared in print until now." Congress at the time was told over and over again that we would not go to war for the offshore islands unless an attack on them was adjudged to be the prelude to an attack on Formosa.

The Senate Would Not Have Ratified

The second passage which calls for urgent attention is at pages 226-7 and deals with the framing of our security treaty with Chiang. This treaty was drafted before Congress was stampeded into passing the Formosa resolution but ratified by the Senate a few weeks later. "The treaty," the Beal biography reveals, "mentioned certain Chinese territories by name and at one point in the Dulles-Yeh talks [George Yeh was then Chiang's Foreign Minister, a post from which he hastily stepped down during the current crisis to be in Washington as Ambassador—IFS] Dulles agreed to include Quemoy and Matsu by name. President Eisenhower struck the two place names out when he saw the minutes of the talks. He felt that the United States needed a certain flexibility in its defensive plans. At the same time he sent Chiang his personal assurances." The truth is that the treaty would never have been ratified by the Senate with Quemoy and Matsu in it. Only a few weeks earlier the Senate had been told that we were not committed to defend the offshore islands. What were the assurances Eisenhower privately gave Chiang?

The Senate and the country have a right to know what those assurances were in order to understand the current negotiations in Warsaw. If Chiang was assured that we would protect him in possession of the offshore islands the area of give-and-take is sharply circumscribed. In particular the door is shut on the idea of exchanging the offshore islands, a thorn in Peking's side, for a renunciation of force on Formosa itself. According to the Dulles biography (p. 227) this was suggested by Anthony Eden at the first SEATO Council meeting in Bangkok as early as February, 1955, but rejected by Dulles as smacking of "the same kind of appeasement employed at Munich." A similar proposal seems to have been made by Peking at the start of the present talks but been angrily withdrawn when we (1) refused to link our demand for a cease-fire with any specific concession and (2) hinted only that if the cease-fire went into effect we would do our best to persuade Chiang to "thin out" his troops on the offshore islands.

Wishful Thinking in Action

It is this feeble proposal which was reflected in Mr. Dulles's remarks last Tuesday, remarks which led many wishful thinkers in the press corps to decide that they now had a "new Dulles." Dulles in my opinion is merely bending before the storm of current popular disapproval. He is playing for time. Peking may not think much of the "thinning out" proposal. For one thing, since Chiang put his troops on Quemoy once before (according to Mr. Dulles) against U. S. wishes, he could do so again. For another, even "thinned out" such troops can carry out unfriendly intelligence, sabotage and blockade activities. On top of this, it would seem from the *People's Daily* editorial of September 28 broadcast by the Peking home service that we are asking China to reduce its own forces along the coast in return for such a "thinning out." The fact is that the American people would also benefit by the complete evacuation of the offshore islands. So long as Chiang has them, he will use them for trouble-making purposes at our expense.

Neither A New Nixon Nor A New Dulles

In return for this "thinning out," the wily Dulles is trying to exact from our NATO allies a new guarantee of Formosa; this would lock them as well as ourselves to our anachronistic China policy. Those who imagine they see a new Dulles in his last press conference will live to be as disappointed as were the devotees of a new Nixon when he cried "sabotage" McCarthy style because the *New York Times* was able to report that the State Department's mail was 80 percent against the Quemoy-Matsu policy. The new Nixon in 1958 is as ready for war over the offshore islands as was the old Nixon in 1954 over Indochina, and for the same reasons of prestige. This, as Senator Green pointed out in a sharp speech at Providence, goes beyond the war powers Congress gave the President in the Formosa resolution. It did not say he could fight for Quemoy to save Chiang's face or our own. In the H-bomb age, we ought to have a more adult reason for pressing the fatal button.

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A Precedent Cited for the Little Rock Decision Recalls A Once Notorious Ruling

The Days When Northern Mobs Rioted Against Federal Court Orders

In striking down all efforts by State courts and legislatures to evade the school decision, the closest precedent cited by Chief Justice Warren and his colleagues last Monday was a case now forgotten but once as notorious in the North as the Dred Scott decision. This was *Ableman v. Booth* (21 How. 506), written by the South's one-time hero, Chief Justice Taney, when Northern State courts and legislatures were trying to evade the Federal Fugitive Slave Law of 1850.

When Taney in 1859 handed down the unanimous decision now invoked against Arkansas, the Court was concerned with mob action supported by State courts against the Federal judiciary. But the mobs were Northern mobs in Wisconsin acting on behalf of the Negro. *Ableman v. Booth* is cited as authority for the final supremacy of the Federal courts. This is based on Article VI which makes the Constitution binding on the States "any Thing in the Constitution or Laws of any State to the Contrary notwithstanding" and requires every State official to take an oath to support it. The Warren Court quotes the Taney Court as saying that the purpose was "to guard against resistance to or evasion of its authority on the part of a State."

A Tongue-in-Cheek Citation?

No one could guess from the cryptic reference in the Little Rock opinion that the circumstances of the *Ableman* case were so neat a parallel. But to readers who recognized it the citation seemed almost a tongue-in-cheek reminder to the South of the days when *it* looked to the Federal courts for support.

Congress had passed the Fugitive Slave Act in 1850 on Henry Clay's suggestion to sugar-coat for the South the admission of California as a free state. The law aroused bitter hostility in the North where State courts and State legislatures tried their best to circumvent it.

The Act seemed to destroy the Bill of Rights in its eagerness to aid the slave-owner. The testimony of the claimant was prima facie evidence against the man he claimed. The fugitive was denied trial by jury. He was forbidden to testify in his own behalf. He could not summon witnesses. The Federal Commissioners appointed to enforce the Act were offered a reward for ruling in favor of the slave-owner; their fee was $10 if they ruled against the Negro but only $5 if they ruled in his favor. If rescue by abolitionists was feared, a posse could be sworn in "and every freeman of the North . . . made a slave-catcher" (McMaster).

A Fighting Editor Raises A Mob

Opposition to the Act reached a climax in Wisconsin in 1854 when a Negro named Joshua Glover was claimed by a Missouri slaver. Sherman M. Booth, editor of an anti-slavery paper in Milwaukee, the *Wisconsin Free Democrat,* addressed a protest meeting of 5,000 persons in that city.

The crowd broke into the jail, seized Glover, "placed him in a wagon and ran him down Clinton St., the Negro lifting his manacled hands and shouting 'Glory! Hallelujah!' The Negro was taken care of by an 'underground railroad' agency and finally," according to an 1895 monograph by Vroman Mason on *The Fugitive Slave Law in Wisconsin,* "put on board a schooner clearing for Canada, which country he reached in safety."

Booth's trial for aiding a fugitive slave was a national sensation. He told the Federal Court that rather than see habeas corpus and trial by jury "stricken down by the Fugitive Slave Law, I would prefer to see every Federal officer in Wisconsin hanged to a gallows higher than Haman's."

The Wisconsin legislature, in terms which recalled the Kentucky resolution of the 1790's against the Alien and Sedition laws, called for "positive defiance" of Federal court orders. On Booth's conviction, the Wisconsin Supreme Court set him free on habeas corpus, ruling that the fugitive slave law was unconstitutional because it failed to provide trial by jury. Taney reversed it in *Ableman v. Booth.* After six years of litigation, Booth was given one month in jail, rescued by a mob, rearrested and then pardoned by President Buchanan just before Lincoln's inauguration.

The Tide Is Against the South

The South is not accustomed to having the Supreme Court against it. On three great occasions, the Court has ruled for the slave-holding and white supremacist South. One was when the Dred Scott decision upset all efforts to compromise the slavery issue by ruling that Congress had no right to exclude slaves from any territory. The second was *Ableman,* when the Court upheld a fugitive slave law stacked against the fugitive. The third was in the decisions after the Civil War which took the heart out of the 14th amendment's intended protection of the freed Negro's civil rights.

It is only in recent years, beginning with the 1944 decision striking down lily white Democratic primaries, that the Supreme Court has begun to rule against the South and sought (as Chief Justice Warren said so movingly at the close of the Little Rock opinion) to "make a living truth" of "our constitutional ideal of equal justice under law."

The difference between those Northern mobs a century ago and the Southern mobs today is that the glacial pressure of a universal human aspiration for equal dignity is against the South. The Civil War reversed Taney on slavery, but there is no way to reverse Warren on integration. White supremacy is as doomed as human bondage.

When Yankees Were The Rebs

"Antislavery, which had long ago denounced the Constitution of the United States as 'a covenant with death and an agreement with hell,' had now become openly rebellious against Federal authority . . . had assumed a judicial form because of positive violation of law and the case was brought to the Supreme Court of the United States. And one year after Mr. Seward, in the Senate, had poured out his abuse upon Chief Justice Taney, that patriotic magistrate delivered one of his most important and to himself (as he told me) one of the most satisfactory opinions against this incipient treason. The case arose under the fugitive slave law. It was the State of Wisconsin, both by its Courts and legislature, that openly defied the judicial authority of the United States."

—Memoir of Roger B. Taney, by Samuel Tyler (an authorized biography written from the Southern view point by a friend of the Chief Justice).

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Some Recent But Forgotten History and A Disclosure in the Vandenberg Papers

How U. S. Liberals Unwittingly Follow An Old Dulles Line on Formosa

Until the outbreak of the Korean war eight years ago our government did not question the fact that Formosa was Chinese territory. When FDR, Churchill and Chiang met in Cairo during World War II, they issued a declaration (Dec. 1, 1943) which promised "that all territories Japan had stolen from the Chinese, such as Manchuria, Formosa and the Pescadores shall be returned to the Replblic of China." When Truman, Attlee and Chiang set forth the terms of Japan's surrender at Potsdam (July 26, 1945), Point 7 was, "The terms of the Cairo Declaration shall be carried out. . . ."

Enter Dulles With A Formula

But in 1949, when it became apparent that Chiang would soon be driven off the mainland, John Foster Dulles tried privately to sell Secretary of State Acheson and Senator Vandenberg a legal argument by which we might get around the Cairo and Potsdam Declarations. This came to light with the publication in 1952 of *The Private Papers of Senator Vandenberg*. Dulles suggested in a lovely bit of hair-splitting that the Cairo Declaration "was not itself an operating document but a statement of future purpose"! He said it had been superseded by the Charter of the United Nations, that the Charter made the welfare of the people of Formosa "a relevant consideration" and that the UN "might not find that the welfare of the inhabitants would be promoted by subjecting them to Chinese Civil War and possible Chinese Communist rule." (See Pps. 536-8 of the Vandenberg papers).

But MacArthur Had Already Ceded Formosa

Senator Vandenberg was "somewhat jolted" by the discovery that there was nothing in the official records of the Cairo and Potsdam meetings to support Dulles's contention that in any case Formosa's status could not be legally determined until there was a formal peace treaty with Japan. Vandenberg wrote in his dairy that "the situation is somewhat further complicated by the fact that Japan's formal surrender included a cession of Formosa to the Chinese Republic and that the first of General MacArthur's executive orders . . . confirmed this cession." (Pps. 539-40).

Far Eastern Non Sequitur

"He (Finletter) drew a sharp distinction between Quemoy and the Matsus on the one hand and Taiwan and the Pescadores on the other. 'There has never been any question,' he said, 'about the fact that Quemoy and the Matsus were part of mainland China.' Taiwan and the Pescadores, however, were part of the Japanese Empire from 1895 to the end of World War II."

—New York Times, Sept. 29.

While Vandenberg hoped there was some way to keep the island from Communist control, he thought "whatever our policy now is to be we must make sure above everything else that it does not alienate" the remaining non-Communist countries of Asia. "In my opinion," he wrote, "any militaristic action on our part in respect to Formosa could seriously jeopardize our successful contacts with India, Indonesia. . . ."

Truman Met the Pressure Head On

After Chiang fled to Formosa in December, 1949, pressure was applied publicly for American military intervention. On January 2, 1950, Senator Knowland made public a letter from former President Hoover urging U. S. naval action and MacArthur put heat on the Administration by leaking in Tokyo a circular sent out by the State Department saying that Formosa's fall was to be expected. Truman met this pressure in characteristic fashion, head on. He issued a statement on January 5 saying that under the Open Door policy the U. S. had always upheld the territorial integrity of China, that the Cairo and Potsdam declarations had recognized Formosa as Chinese, and that "in keeping with these declarations, Formosa was surrendered to Generalissimo Chiang Kai-shek and for the past four years the United States and other Allied Powers have accepted Chinese authority over the island."

That same day at press conference Acheson "rejected any notion that the United States should wriggle into Formosa by a trick argument about the absence of a formal treaty ending Japanese sovereignty." (Mc George Bundy: *The Pattern of Responsibility, The Record of Dean Acheson,* p. 186). Acheson said the U. S. would not compromise the "integrity" of its China policy by a lawyer's "quibble."

The Korean war, which benefitted Chiang in so many ways, led to the reversal of this position. It put the 7th fleet in the Formosa straits and threw an American protectorate over the island. Those liberals who oppose war over Quemoy and Matsu as Chinese territory but agree that "of course" Formosa is different and should be handed over to the United Nations are following unwittingly in the wake of the old Dulles line. They may find themselves morally committed to war over Formosa. Legally, Formosa is part of China. *Only the interposition of U. S. military force in 1950 has prevented its union with the mainland.* If we are intent on the maintenance of principles in international relations rather than on the use of force, we ought to be prepared to subject our conduct as well as Peking's to that test.

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A Sour Observation on Playhouse 90's "The Plot to Kill Stalin"

What Happens When de Gaulle Tries to Cash All Those Blank Checks?

The weakness of the governments under the Fourth Republic is that almost all of them were unstable coalitions, temporarily uniting diverse and contradictory views. In a sense the Fifth Republic is the same kind of unsteady coalition, the difference being that the diverse and contradictory views are now embodied in a man instead of a Cabinet.

No democratic politician or Fascist demagogue in our lifetime has dared to be as non-committal as de Gaulle was in his campaign. His assets were his record as the Resistance leader and his style, always an appealing point with the French. By saying as little as possible, he let every man believe he heard the echo of his own thoughts in de Gaulle's delphic utterances. No national leader has ever been handed so many blank checks. But what happens when he begins to cash them?

When The Magic Fails

The French of the homeland voted for de Gaulle because they were offered no clear alternative to the Fourth Republic none defended; the best that Mendes-France could suggest was a constituent assembly. The French did not vote for de Gaulle because they agreed with his program; nobody knows what it is, but because they hoped that his election by some magic would solve their problems with no great effort on their own part. Disappointment could be as overwhelming as the vote.

The fate of the Fifth Republic, like that of the Fourth, will be settled in Algeria where Frenchman and Arab voted for an integration in which neither side believes. The Arabs voted "oui" because they were herded to the polls by the Army; the French in Algeria voted "oui" because they hope that de Gaulle will wipe out the rebellion by force. When he tries to negotiate, he will disappoint both sides.

Until Algeria Is Free

Should de Gaulle really satisfy the Algerian Nationalists, he may be met with rebellion by the *colons,* and the right in France. Should he step up the war in Algeria, he may have to clamp down dictatorial controls against dissatisfaction at home. France accepted de Gaulle last May in fear of civil war. France will never be free of this fear until it has freed Algeria.

A French government with the courage to use the word "independence" in dealing with the Algerian nationalists could not only settle for something less but unite all Arab North Africa with France in a new kind of free federation, for both sides in the struggle need each other. Perhaps, at this moment, before the effect of Sunday's vote wears off, de Gaulle might dare such imaginative and magnanimous tactics. But will he?

* * *

Bufferin, Aspirin and Stalin

We got a little mixed up watching "The Plot to Kill Stalin" on Playhouse 90, and at one moment thought we heard the announcer say that Bufferin was twice as fast as Stalin. After Beria had observed philosophically that death comes to all men, another commercial contributed the consoling thought that "All States Insurance Company may help you." Kleenex, too, figured somewhere in the sponsorship of this tasteful drama. We wonder why some resourceful advertising man didn't sell a share of the show to a vodka manufacturer, perhaps with an imaginary testimonial (when so much else is imagined, why not go further?) from Krushchev saying, "I got the nerve to kill Stalin by drinking X———'s vodka." We don't like Krushchev but neither do we like to see a man accused of murder on a national network. We think the show was bad taste and bad medicine in a world struggling to maintain some semblance of sanity and peace.

Uncivil Defense Dept.

"Two weeks ago at a Democratic party regional meeting in Salt Lake City, the talk turned to civil defense. Senator Anderson (N. Mex.) was presiding.

" 'Suppose,' asked a citizen, 'that the Russians come over and drop atomic bombs on the United States? Where do I go?'

" 'That depends,' said Sen. Anderson, 'on what kind of life you led'."

—Washington Post, Sept. 29.

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NEWSPAPER

Entered as Second Class Mail Matter Washington, D. C. Post Office

I. F. Stone's Weekly. Entered as Second Class Matter at Washington, D. C., under the Act of March 3, 1879. Post-dated Mondays but published every Thursday except the last two Thursdays of August and December at 5618 Nebraska Ave., N. W., Washington 15, D. C. An independent weekly published and edited by I. F. Stone; Circulation Manager, Esther M. Stone. Subscription: $5 in the U. S.; $6 in Canada; $10 elsewhere. Air Mail rates: $15 to Europe; $20 to Israel, Asia and Africa.

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